The State of New Hampshire

STATE DEPARTMENT OF HEALTH
DIVISION OF VITAL STATISTICS

Laws of New Hampshire Relating to Births, Marriages, Deaths and Divorces

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For the Use of Physicians, Clergymen, Town Clerks, Boards of Health, Embalmers and Funeral Directors

JUNE, 1945

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The State of New Hampshire

REVISED LAWS, CHAPTER 337

REGISTRATION OF BIRTHS, MARRIAGES, AND DEATHS

1. Statistical Forms. The registrar of vital statistics for the state shall furnish to sextons, to clergymen and others authorized to solemnize marriages, to physicians, town clerks and clerks of the society of Friends, a copy of this chapter and suitable blanks for recording the following facts in relation to births, marriages, and deaths:

I. Birth. The record of a birth shall state its date and place of occurrence, full Christian and surname (if named), color and sex of child, whether living or still-born, and the full Christian and surnames, color, occupation, residence, and birthplace of parents.

II. Marriage. The record of marriage shall state its date and place of occurrence, the name, residence and official character of the person by whom solemnized, the full Christian and surnames of the parties, the age, color, occupation, residence, condition, whether single or widowed and whether first or other marriage of each party, and the full Christian and surnames, residence, color, occupation, and birthplace of their parents.

III. Death. The record of a death shall state its date, the full Christian and sur-

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name of the deceased, the sex, color, condition (whether single or married), age, occupation, place of birth, place of death, the full Christian and surnames and birthplaces of parents, and the disease or cause of death.

2. Seal of Registrar. The registrar of vital statistics shall have a seal, which shall be like the seal of the state except that the device thereon shall be surrounded by the words "The State of New Hampshire, Department of Vital Statistics" in the place of the words "Seal of the State of New Hampshire, 1776."

3. Authenticated Copies. Every certificate or other official paper executed by the registrar under seal, in pursuance of authority conferred by law, shall be received as evidence, and may be recorded in the proper recording offices in the same manner and with like effect as a legally acknowledged deed; and copies of papers and records in his office, so authenticated, shall be received as evidence with the same effect as the originals.

4. Report of Birth. The attending physician, midwife or other person in charge, who shall attend, assist or advise at the birth of any child, living or still-born, within the state, shall report to the clerk of the town within six days thereafter all the facts required by paragraph I of section 1. In case the parents of the child reside in some other town than the place of birth, the clerk of the town within which the birth takes place shall thereupon send a copy of the birth record to the clerk of the town within which the parents reside, where the same shall be recorded; but only the clerk of the town of actual

birth shall be required to transmit a copy to the state registrar.

5. **Report of Marriage.** Every person who solemnizes a marriage shall make a record of it and of all the facts required by paragraph II, section 1, and, within six days thereafter, shall forward to the clerk of the town in which the marriage intention was recorded a copy of such record.

6. **Town Record, etc.** The clerk of every town shall keep a chronological record of all births, marriages and deaths reported to him, and shall, between the sixth and twelfth days of each month, transmit a copy of such record for the preceding month, or for any previous month not before reported, to the state registrar. He shall also transmit the names, residences and official stations of all persons who have neglected to make to him the returns required by law relating to the subject-matter of such records.

7. **Marriage of Nonresident.** Whenever there is filed with a town clerk a certificate of the marriage of any person not a resident of the town where such marriage is solemnized he shall, within ten days after such filing, forward an attested copy of such certificate to the clerk of the town where each nonresident so married resides, as shown by the certificate, whether in this or another state.

8. **Notice to Parents, etc.** Town clerks shall, within thirty days after receiving the report of a birth, send a copy of the record to the parents, and state that the birth has been duly recorded on the town books, and, if the name of the child is not given,

it shall be the duty of the clerk to obtain it and complete the record.

9. Preservation of Returns. The state registrar shall cause the returns made to him in pursuance of the preceding sections, together with the returns of divorces made by the clerks of court, to be arranged, alphabetic indexes of all the names contained therein to be made, and the whole to be bound in convenient volumes and preserved in his office. He shall include a general abstract thereof in his annual report.

10. Record, Evidence. The town clerk's record of a birth, marriage or death, or a duly certified copy thereof, shall be *prima facie* evidence of the fact, in any judicial proceeding.

11. Fees. The town shall pay the following fees for services required by this chapter: To a person who makes return of a birth, marriage, or death, twenty-five cents; to the town clerk for receiving, recording, and returning the facts, fifty cents.

12. Payment by County. The physicians' fees for the return of all births and deaths occurring at county farms, almshouses, jails and other county institutions, and the town clerks' fees for recording the same, shall be paid by the county in which said births or deaths occur, at the same rates; and the treasurer of any county shall, upon the presentation of the bill for such services of any town clerk within his county, duly approved by the county commissioners, draw his warrant for the same.

13. Institutional Records. The record of all births and deaths occurring at such

institutions shall be kept in separate books suitable for this purpose by the clerk of the town in which such institution may be located, and such records shall be kept separate from all other records.

14. Unreported Facts. The clerk of each town shall be paid fifty cents for obtaining, recording and returning the facts relating to each birth, marriage, or death, which has not been officially reported to him; and a like sum for obtaining and properly inserting in the records and returns the name of any child which may have been omitted from the official return of a birth made to such town.

15. Vouchers. The clerk shall append to his vouchers, for fees due him for said service, a list of the names obtained by him under the provisions of the preceding section.

16. Penalties. Any person who wilfully makes or alters any vital statistics record, or certified copy thereof, except as provided in this chapter, shall be fined not more than one thousand dollars or imprisoned not more than six months, or both. Any person who violates any of the provisions of this chapter, or of any rule or regulation promulgated thereunder, or who neglects or refuses to perform a duty imposed upon him by the provisions hereof, shall be fined not more than one hundred dollars for each offense, for the use of the town in which the offense was committed, and it shall be the duty of the registrar of vital statistics to enforce this section. (1943, c. 194, s. 2.)

17. Rules and Regulations. The registrar of vital statistics is authorized and em-

powered to make rules and regulations to secure uniformity and efficiency in the preparation, transcription, collection, compilation and preservation of facts in relation to births, marriages and deaths. Said rules and regulations also may include provisions for so-called delayed certificates of birth, the registration of children of unknown parentage, the filing of additional certificates after the legitimation of children and other matters relative to vital statistics. Such rules and regulations shall be given such publicity as said registrar may deem necessary and shall be binding upon the town clerks charged with duties under the provisions of this chapter.
(1943, c. 194, s. 1.)

18. Certified Copies. A town clerk or the registrar of vital statistics shall issue to any applicant a certified copy of any record in his office relative to births, marriages and deaths or any part thereof, or verification thereof.
(1943, c. 194, s. 1.)

19. Fees. A town clerk or the registrar of vital statistics shall be paid in advance, by any person requesting any copy or verification as provided in section 18, the sum of fifty cents for making search, which sum shall include payment for the issuance of such copy or verification, provided that the fee to town clerks for examination of documents and issuance of a delayed birth certificate shall be two dollars.
(1943, c. 194, s. 1.)

20. Governmental Agencies. Certified copies, certificates of partial facts, verifications or search of the records may be made for any federal, state or local governmental

agency by special arrangement without regard to the provisions of section 19. (1943, c. 194, s. 1.)

21. Disposal of Fees. All fees collected by the registrar of vital statistics under the provisions of sections 19 and 20 shall be paid into the state treasury. (1943, c. 194, s. 1.)

REVISED LAWS, CHAPTER 338

MARRIAGES

Relationship

1. Degrees Prohibited, Men. No man shall marry his father's sister, mother's sister, father's widow, wife's mother, daughter, wife's daughter, son's widow, sister, son's daughter, daughter's daughter, son's son's widow, daughter's son's widow, brother's daughter, or sister's daughter, father's brother's daughter, mother's brother's daughter, father's sister's daughter or mother's sister's daughter.

2. Degrees Prohibited, Women. No woman shall marry her father's brother, mother's brother, mother's husband, husband's father, son, husband's son, daughter's husband, brother, son's son, daughter's son, son's daughter's husband, daughter's daughter's husband, brother's son, sister's son, father's brother's son, mother's brother's son, father's sister's son or mother's sister's son.

3. Effect of Marriage. Every marriage contracted by parties within the degrees prohibited by the two preceding sections is incestuous and void, and the issue of such marriage illegitimate.

Age

4. Marriageable. No male below the age of fourteen years and no female below the age of thirteen years shall be capable of contracting a valid marriage, and

all marriages contracted by such persons shall be null and void.

5. Of Consent. The age of consent shall be in the male, twenty years and in the female, eighteen years. Any marriage contracted by a person below the age of consent, except as hereinafter provided, may in the discretion of the superior court be annulled at the suit of the party who at the time of contracting such marriage was below the age of consent, or at the suit of his or her parents or guardian, unless such party after arriving at such age shall have confirmed the marriage.

6. Petition by Party Under Age. If special cause exists rendering desirable the marriage of a person resident in this state below the age of consent and above the ages specified in section 4, the parties desiring to contract such marriage, with the parent or guardian having the custody of such party below such age, if there be such parent or guardian within the state, may apply in writing to a justice of the superior court, or to the judge of probate of the county in which one of them who is below such age resides, for permission to contract such marriage.

7. Permission. Such justice or judge shall at once hear the parties, and, if he is satisfied that special cause exists making such marriage desirable, he shall grant permission therefor, which shall be filed with the court and shall be certified by the clerk or register to the town clerk to whom application is made for a certificate; and such clerk shall minute the fact of the granting of such permission upon the certificate issued by him, and upon the record thereof preserved by him, and upon all

copies thereof which he is by law required to make.

8. Prohibitions. No town clerk shall issue any certificate for the marriage of any person below the age of consent, and no magistrate or minister of religion shall solemnize the marriage of any such person, if such clerk, magistrate or minister knows or has reasonable cause to believe that such person is below such age, unless permission for such marriage has been given as provided herein.

9. Penalty. Any person violating any of the provisions of the preceding section, or any person knowingly making any false statement as to the age of any person, with intent to induce any clerk to issue a certificate for the marriage of any person below the age of consent, or to induce any magistrate or minister of religion to solemnize the marriage of any such person, shall be fined not more than two hundred dollars, or imprisoned not more than six months, or both.

Defective Persons

10. Marriage. No woman under the age of forty-five years, or man of any age, —except he marry a woman over the age of forty-five years,—either of whom is epileptic, imbecile, feeble-minded, idiotic or insane, shall hereafter intermarry or marry any other person within this state.

11. Solemnization. No clergyman, or other officer authorized to solemnize marriages, shall perform a marriage ceremony prohibited by the preceding section.

12. Certificate. No town clerk or other

authorized officer shall issue a certificate for such prohibited marriage.

13. Application to State Board of Health. Should any question arise as to whether an applicant for such certificate is so disqualified, the contracting parties shall apply to the state board of health which shall thereupon appoint some qualified person or persons to determine whether the contracting parties are epileptic, imbecile, feeble-minded, idiotic or insane, such determination to be certified under oath.

14. Reports Required. It shall be the duty of all superintendents of schools and of all who have charge of instruction in private schools or state schools annually in July to file with the state board of health the names of all epileptics, imbeciles, feeble-minded, idiotic and insane persons who have left school or have become fourteen years of age during the preceding year. It shall be the duty of the superintendents of the Laconia state school and of the New Hampshire state hospital to file with the state board of health the names of all such persons discharged or paroled from those institutions. The names thus reported shall not be made public except so far as is necessary for the public welfare.

15. Applications Referred to State Board. It shall be the duty of the town clerk or other authorized officer when application is made for a certificate for the marriage of any person born subsequent to June 1, 1909, suspected as being epileptic, imbecile, feeble-minded, idiotic or insane to cause the application to be forwarded for inspection to the state board of health. The state board of health after investiga-

tion shall return the application to the town clerk or other authorized officer and if it finds that a certificate may not legally be granted it shall so notify the clerk and the applicants for the license.

16. Penalty. Any person who knowingly violates any of the provisions of this subdivision shall be fined not less than fifty nor more than five hundred dollars, or imprisoned not more than thirty days, or both.

Diseased Persons

17. Marriage. It shall be unlawful for any person suffering from gonorrhoea or syphilis reported to the state board of health in accordance with chapter 156, and the rules and regulations promulgated thereunder, to marry until there is returned to said board a satisfactory record by the physician in charge of the case that the person so registered is free from disease and will not infect others.

18. Duty of Physicians. Every physician shall keep a record of all cases of syphilis and gonorrhoea that come under his observation and care, and shall use reasonable means to ascertain the intentions of syphilitic or gonorrhoeal patients as to marriage. The physician shall warn said patients of the legal, moral, and physical evils of marriage contracted by them.

19. Notice to State Board. If the physician learns that such a patient intends to marry, the physician shall notify the state board of health.

20. Certificate. When it shall be made known to any town clerk, by a legally registered physician or by any board of health,

that a person desiring a marriage certificate has gonorrhoea or syphilis, such certificate shall not be issued without the consent of the state board of health.

21. Penalty. Any person failing to comply with the provisions of this subdivision shall be imprisoned not more than one year nor less than three months, or fined not more than five hundred nor less than two hundred dollars, or both.

Marriage Intentions, Blood Test, Certificates, etc.

22. Notice of Intention. All persons proposing to be joined in marriage within the state shall cause notice of their intention, with the full Christian and surnames, color, occupation, birthplaces, residences, and ages of the parties, their condition, whether single or widowed, whether first or other marriage of each party, and the full Christian and surnames, residences, color, occupation, and birthplaces of their parents, to be entered in the office of the clerk of the town in which they or either of them dwell if either of them dwell in this state; otherwise in the town in which the marriage is celebrated. If there be no such clerk in the place of their residence the like entry shall be made with the clerk of an adjoining town. The clerk shall record the notice in a book to be kept for that purpose.

23. Blood Test Required. No application for a marriage license shall be accepted by any town clerk until there shall be in his possession a statement signed by a licensed physician that each applicant has submitted to a Wassermann or Kahn or other similar standard laboratory blood

test and that, in the opinion of such physician, the person is not infected with syphilis or in a stage that may become communicable. Such statements shall be accompanied by a record of the standard laboratory blood tests made, and this record shall contain the exact name of such applicant. The standard laboratory blood test shall be performed by the state board of health on request of a licensed physician, or at a laboratory approved by said board. Such test shall be made not more than thirty days before the issuance of the marriage license.

24. Penalty. Any person violating the provisions of section 23 shall forfeit sixty dollars for each such offense.

25. Confidential Report, Optional Destruction. The statement and record required by section 23 shall be treated as a confidential report and shall not be considered as part of the marriage record. Such statement and record shall be retained for a period of two years after the date thereof, after which it may be destroyed at the option of the official having custody thereof. (1943, c. 50, s. 1.)

26. Certificate. The clerk shall, not less than five days from the date on which the notice of intention of marriage was entered in his office, deliver to the parties a certificate, under his hand, embodying the facts required in section 22, specifying the time when the notice was entered with him, which certificate shall be delivered to the minister or magistrate who is to officiate, before he shall proceed to solemnize the marriage. Said certificate shall be valid only for a period of ninety days from the date of issue.

27. Shortening Period; Blood Test Waived. On application to a justice of the superior court, or judge of probate within the county where the proposed marriage is to be solemnized, the court for good cause shown may order that the period of five days provided in the preceding section be shortened, as in the order provided, and for like cause may waive the provisions of section 23.

28. Procedure. The procedure upon such application shall be as provided in section 7.

29. Fee. The fee of the clerk for makthe record of notice and issuing his certificate shall be two dollars, to be paid by the parties.

30. Marriage Outside the State. When parties living in this state shall go out of it to be married, and shall return to it to reside, they shall file a certificate or declaration of their marriage, including the facts required to be stated in the notice aforesaid, with the clerk of the town where either of them lived prior to their marriage, within seven days after their return, under penalty of ten dollars.

Solemnization of Marriage

31. Who may Solemnize. Marriage may be solemnized by a justice of the peace as commissioned in the state; by any minister of the gospel in the state who has been ordained according to the usage of his denomination, resides in the state, and is in regular standing with the denomination; and, within his parish, by any minister residing out of the state, but having

a pastoral charge wholly or partly in this state.

32. Special Commission. The secretary of state may issue a special license to an ordained minister residing out of the state authorizing him in a special case to marry a couple within the state. The names and residences of the couple proposed to be married in such special case shall be stated in the license, and no power shall be conferred to marry any other parties than those named therein. The fee for such license shall be five dollars. The secretary of state shall keep a permanent record of all such special licenses, which record shall contain the names and residences of the couple to be married and the name and residence of the minister to whom the license is issued.

33. Fee. The persons joined in marriage by a minister or justice shall pay the minister or justice one dollar.

34. Penalty. If a minister or justice of the peace shall join any persons in marriage without having first received a certificate of the town clerk, or shall join any persons in marriage with a certificate which he knows to be invalid, he shall forfeit for each offense sixty dollars.

35. Unauthorized Person. If a person not authorized by this chapter to solemnize marriages shall join any persons in marriage, with or without a certificate, he shall be fined not more than three hundred dollars.

36. Effect of Informality. No marriage solemnized before a person professing to be a justice of the peace or minister of the

gospel shall be void, nor shall its validity be affected on account of want of jurisdiction or authority in such supposed justice or minister, or on account of any omission or informality in the certificate of intention of marriage, if the marriage is in other respects lawful and has been consumated with the belief on the part of either of the parties thereto that they were lawfully married.

37. Exceptions. Nothing contained in this chapter shall affect the right of Jewish Rabbis who are citizens of the United States, residing in this state, or of the people called Friends or Quakers, to solemnize marriages in the way usually practiced among them, and all marriages so solemnized shall be valid. Jewish Rabbis who are citizens of the United States, residing out of the state, may obtain a special license as provided by section 32.

Proof of Marriage

38. Certified Copy. A copy of the record of a marriage, certified by a minister, justice, clerk of the people called Friends, or town clerk, shall be received in all courts and places as evidence of the fact of the marriage.

39. Cohabitation, etc. Persons cohabiting and acknowledging each other as husband and wife, and generally reputed to be such, for the period of three years, and until the decease of one of them, shall thereafter be deemed to have been legally married.

40. Civil Actions. In all civil actions, except actions for criminal conversation, evidence of acknowledgment, cohabitation,

and reputation is competent proof of marriage.

41. Criminal Cases. In actions for criminal conversation, and in indictments for adultery, bigamy, and the like, there must be proof of a marriage in fact.

Legitimation of Children

42. Where the parents of children born before marriage afterwards intermarry, and recognize such children as their own, such children shall be legitimate and shall inherit equally with their other children under the statute of distribution.

REVISED LAWS, CHAPTER 339

DIVORCE AND SEPARATION

Void Marriages

1. Without Decree. All marriages prohibited by law on account of the consanguinity or affinity of the parties, or where either has a former wife or husband living, knowing such wife or husband to be alive, if solemnized in this state, shall be absolutely void without any legal process.

2. Libels. If any doubt exists whether any marriage is void, or as to the effect of any former decree of divorce or nullity between the parties, a libel may be filed as in other cases, and a decree of divorce or nullity may be made.

2-a. Jurisdiction. In any proceedings for annulment for any cause whether under statute or under common law, the court shall have jurisdiction to declare an annulment of a marriage entered into in this state even though neither party has been at any time a resident herein. (1945, c. 12, s. 1.)

Jurisdiction to Grant Divorce

3. Limitation. The jurisdiction of the court to grant divorce is limited to cases where there is jurisdiction over the parties and of the alleged cause as defined in the two succeeding sections.

4. Parties. Jurisdiction of the parties exists in the following cases only:

I. Where both parties were domiciled in the state when the action was commenced.

II. Where the plaintiff was so domiciled and the defendant was personally served with process within the state.

III. Where the plaintiff was domiciled in the state for one year next preceding the time when the action was commenced.

IV. Where the domiciled plaintiff has filed a libel the non-domiciled defendant may have affirmative relief upon filing a cross libel.

5. Cause. Jurisdiction of the cause for divorce exists when it wholly arose or accrued while the plaintiff was domiciled in the state, and not otherwise.

Causes for Divorce

6. Absolute Divorce. A divorce from bonds of matrimony shall be decreed in favor of the innocent party for either of the following causes:

I. Impotency of either party.

II. Adultery of either party.

III. Extreme cruelty of either party to the other.

IV. Conviction of either party, in any state or federal district, of a crime punishable with imprisonment for more than one year and actual imprisonment under such conviction.

V. When either party has so treated

the other as seriously to injure health or endanger reason.

VI. When either party has been absent three years together, and has not been heard of.

VII. When either party is an habitual drunkard, and has been such for three years together.

VIII. When either party has joined any religious sect or society which professes to believe the relation of husband and wife unlawful, and has refused to cohabit with the other for six months together.

IX. When either party, without sufficient cause, and without the consent of the other, has abandoned and refused, for three years together, to cohabit with the other.

X. When the husband has willingly absented himself from the wife for three years together, without making suitable provision for her support and maintenance.

XI. When the wife of any citizen has willingly absented herself from her husband, without his consent, for three years together.

XII. When the wife of any citizen has gone to reside beyond the limits of this state, and has remained absent and separate from her husband ten years together, without his consent and without returning to claim her marriage rights.

XIII. When the wife of any alien or citizen of another state, living separate, has resided in this state for three years

together, her husband having left the United States with the intention of becoming a citizen of some foreign country, and not having during that period come into this state and claimed his marital rights, and not having made suitable provision for his wife's support and maintenance.

7. Existence at Filing. No divorce shall be granted for any cause except adultery, unless the cause shall be in existence at the time of filing of the petition therefor.

Procedure

8. Venue; Notice. All libels for divorce shall be brought in the county in which the parties, or one of them, live, and before the superior court; and the notice of the pendency thereof shall be given to the libelee, personal or otherwise, as the court shall order.

9. Libels. Every libel shall state the cause or causes of divorce, and shall be signed by the libelant, if of sound mind and of the age of legal consent; otherwise by the parent, guardian or next friend of the libelant.

10. Insanity of Libelee. If the libelee is insane the court may appoint a guardian to appear and answer for the libelee, as is done for an infant defendant at common law.

11. Evidence of Marriage. Upon a hearing for divorce, the admission of the marriage by the party against whom the process is instituted, general repute, the fact of cohabitation, or any other circumstantial or presumptive evidence from

which the marriage may be inferred, shall be competent evidence for the consideration of the court.

12. Revision of Orders, etc. The court, upon proper application and notice to the adverse party, may revise and modify any order made by it, may make such new orders as may be necessary, and may award costs as justice may require.

13. Clerks' Returns. The clerks of the superior court shall, at the close of each term in their respective counties at which divorces are granted, make return to the registrar of vital statistics of the number of divorces decreed at that term, the causes thereof, the sex of the libelant, and the date of the decree.

Alimony, Allowances, Custody, Etc.

14. Temporary Orders. After the filing of a libel for divorce the superior court, or any justice thereof, may, on petition of the wife, prohibit the husband from imposing any restraint upon her personal liberty, or from entering the tenement where she resides during the pendency of the libel, and, during such pendency, may order a temporary allowance to be paid to the wife by the husband for her support, and, on the petition of either party, may make such order respecting the custody and maintenance of the minor children of the parties as shall be deemed expedient and for the benefit of the children.

15. Support of Children. In all cases where there shall be a decree of divorce or nullity, the court shall make such fur-

ther decree in relation to the support, education, and custody of the children as shall be most conducive to their benefit, and may order a reasonable provision for their support and education.

16. Alimony. Upon a decree of nullity or divorce, the court may restore to the wife all or any part of her estate, and may assign to her such part of the estate of her husband, or order him to pay such sum of money, as may be deemed just, provided that in cases in which no children are involved, or in which the children have reached the age of majority, said order shall be effective for not more than three years from the date thereof, but such order may be renewed, modified or extended if justice requires for periods of not more than three years at a time; and may compel the husband to disclose, under oath, the situation of his property; and before or after the decree, may make such orders and use such process as may be necessary.

17. Trusteeship. In a case arising under the two preceding sections the court may order the property to be conveyed or the money to be paid to a trustee, to invest and to apply the income thereof to the support of the wife or the maintenance and education of the minor children, and to pay over the principal sum, or any part thereof, as the court may from time to time order.

18. Security. In all cases where alimony or an allowance shall be decreed for the wife or children the court may require security to be given for the payment thereof.

19. Allowance for Husband. Upon a

decree of nullity or divorce, the court may decree that the husband shall have a part of the estate of the wife in the nature of alimony, as justice may require

20. Legitimacy. No decree of divorce shall affect the legitimacy of a child born or begotten in lawful matrimony, unless it shall be so expressed in the decree, and children born of a marriage entered into in good faith by the parties thereto shall be regarded as legitimate children and their legitimacy shall not be affected by a decree of nullity, unless it shall be so expressed in the decree.

Change of Name

21. Decree. In proceedings for divorce, when the libelant shall have asked in the libel to have her name changed, the court may, when a divorce is decreed, decree the change of her name to that which she bore before her last marriage.

22. Return of List. The clerk of the superior court for each county shall, at the end of each term of court, transmit to the register of probate a full and correct list of all changes of names that have been decreed hereunder.

23. Publication. The register of probate shall return said list to the secretary of state, who shall cause it to be published as the lists of names changed by the judges of probate are, except that the names shall be designated when published as names changed by the superior court in divorce proceedings.

Limited Divorces

24. Legal Separation. In any case in which a divorce might be decreed the superior court, on petition of the party who would be entitled to a divorce, may decree a legal separation of the parties, which separation shall have in all respects the effect of a divorce, except that the parties shall not thereby be made free to marry any third person, and except as hereinafter provided.

25. Procedure, etc. Upon such petition the procedure shall be the same as upon libels for divorce, and the court shall have the same power in all matters relating to restraining orders and decrees, allowances, alimony, custody of children and division or apportionment of the property of the parties, as in cases of divorce. The name of the wife shall not be changed.

26. Resumption of Relations. The parties to such a petition may at any time resume marital relations, upon filing with the clerk of the superior court for the county in which the separation was decreed their written declaration of such resumption, signed, acknowledged and witnessed. Such declaration shall be entered upon the docket, under the entries relating to such petition.

27. Effect of Resumption. Such resumption of marital relations shall terminate and annul all restraining orders, and all decrees relating to alimony or the custody of children, but shall not affect any decree relating to the division or apportionment of property.

28. Returns. The clerk of the superior

court shall make return of all such decrees of separation and declarations of the resumption of marital relations to the registrar of vital statistics in the manner provided for the return of divorces.

Orders for Support, Etc., When Husband is Insane, Etc.

29. Order on Petition. Whenever the husband is insane, or whenever a cause is in existence which is, or if continued will be, a cause for a divorce in favor of the wife, the superior court, upon petition of the wife and such procedure thereon as in divorce cases, may restrain the husband from interfering with the personal liberty of the wife, may grant to her temporarily or permanently the custody, care, education and maintenance of their minor children and may make to her a reasonable allowance out of the estate of the husband for the support of herself and children, all subject to such limitations and conditions as the court shall deem just.

30. Modification. Upon motion and notice to the adverse party in the proceeding, or upon a new petition by either party and like procedure thereon, the court may modify or revise its orders and decrees.

31. Temporary Allowance. At any time after the filing of a petition for an allowance, and before final hearing, the court may, on satisfactory affidavits or other proofs, order a temporary allowance to be paid to the wife by the husband, pending the final hearing on the petition.

32. Enforcement. Upon such petition

an attachment of the husband's property may be made as in case of a libel for divorce; and the court may make interlocutory orders therein as in divorce cases, and its orders and decrees shall be enforced in like manner.

33. Support of Children. In cases where husband and wife are living apart the court, upon petition of either party, may make such order as to the custody and maintenance of the children as justice may require; and all appropriate provisions of this chapter shall apply to such proceedings.

REVISED LAWS, CHAPTER 168

MORTUARY REGULATIONS

The Practice of Embalming and Funeral Directing

1. Definition. Words and phrases used in this chapter shall be construed as follows:

I. "Board," the state board of registration of funeral directors and embalmers appointed under the provisions hereof.

II. "Persons," shall include corporations, partnerships, associations or other organizations.

III. "Embalming," the business, practice, science or profession of preserving, disinfecting and preparing in any manner, dead human bodies for burial, cremation or transportation.

IV. "Funeral directing," the business, practice or profession of (a) directing or supervising funerals, (b) the preparation or disposal of dead human bodies, (c) conducting or maintaining a preparation room or establishment equipped with necessary drainage and ventilation, and containing the necessary instruments and supplies for the preparation and embalming of dead human bodies for burial, cremation or transportation, (d) conducting or maintaining a funeral home or parlor, mortuary or funeral chapel from which funerals may be held and wherein services may be conducted.

V. "Embalmer," any person engaged, or holding himself out as engaged in embalming, whether on his own behalf or in the employ of another, and shall include any person who shall use, in connection with his name, the word embalmer, or any other word or title intending to imply or designate him as an embalmer, or as one engaged in embalming.

VI. "Funeral director," any person engaged, or holding himself out as engaged in funeral directing or who shall use in connection with his name or business the words funeral director, mortician, or any other word or title intending to imply or designate him as a funeral director, undertaker, or mortician.

VII. "Apprentice," any person engaged in embalming under the instruction and supervision of an embalmer duly licensed and registered under the provisions of this chapter and actively engaged in embalming in this state.

2. State Board Constituted. There shall be a state board of registration of funeral directors and embalmers. Said board shall consist of five members as follows: The secretary of the state board of health, *ex officio*, and four members to be appointed by the governor with the advice and consent of the council. The secretary of the state board of health shall be secretary of this board.

3. Appointment. All appointees to the board shall be funeral directors, shall be citizens and residents of the state who have had at least five years of practical experience in funeral directing and in embalming, and shall have been engaged

therein in this state for a period of at least five years. Appointees shall be chosen from a list of three names annually submitted to the governor and council by the New Hampshire Funeral Directors' Association.

4. **Term of Office.** The term of office of each appointed member shall be for four years and until his successor is appointed and qualified.

5. **Removal from Office.** Any member of said board may be removed by the governor and council for cause.

6. **Compensation.** The members of the board shall receive the sum of five dollars per day while actually engaged upon the business of the board and shall be reimbursed for necessary traveling expenses incident to attendance upon the business of the board, provided that said compensation and expense shall be a charge upon the fund herein constituted and further provided that in case said fund shall be insufficient to pay said compensation and expenses the members of said board shall have no claim upon the state for said compensation.

7. **Vacancies.** Vacancies in the board shall be filled by the governor with the advice and consent of the council for the unexpired term and said appointment shall be made within sixty days from the date of such vacancy.

8. **Organization; Quorum.** Within thirty days after appointment and qualification of a member, the board shall meet and organize by electing a chairman and a treasurer. This organization shall continue un-

til the appointment of a new member. The office of secretary and treasurer may be held by one member. Three members shall constitute a quorum for the transaction of business.

9. Rules and Regulations. The board shall have the power to adopt whatever rules and regulations it may deem necessary for the transaction of its business and the management of its affairs, for the betterment and promotion of educational and other standards and for the regulation, conduct and supervision of the general business, practice, science or profession of funeral directing and embalming.

10. Secretary, Duties. The secretary of the board shall keep a record of all proceedings of the board, issue all notices and certificates and attest such papers and orders and perform such other duties as may be designated or directed by the board. He may employ a clerk and expend for such employment a sum not exceeding five hundred dollars a year.

11. List of Licensees. The secretary of the board shall, on or before the fifteenth day of February of each year, supply each registered embalmer and the railroad companies within this state with a list of all funeral directors then holding certificates of registration stating the name, business address and registration number of each funeral director. The board shall keep a register in which shall be entered the names of all persons to whom certificates are issued, and this register shall be open to public inspection at the office of the board.

12. Treasurer, Duties. The treasurer

of the board shall receive and keep a record in detail of all sums collected and paid to the state treasurer and all sums expended by the board. He shall pay over monthly to the state treasurer all moneys received by the board under the provisions of this chapter.

13. Qualifications, Embalmers. No person shall embalm dead human bodies or engage or hold himself out as engaged in embalming whether on his own behalf or in the employ of another, unless he shall be at least twenty-one years of age, a citizen of the United States, be of good moral character, shall hold a diploma or certificate showing completion of a high school course or its equivalent, shall have completed a one-year course in apprenticeship under the supervision and instruction of a duly registered embalmer actively engaged in embalming in this state and shall have completed a full course of instruction in an embalming school maintaining at that time a standard satisfactory to the board, and pass such examinations as the board may deem proper to ascertain his efficiency and qualifications to engage in embalming, and obtain a certificate of registration from the board to that effect.

14. Funeral Directors. No person shall engage or hold himself out as engaged in funeral directing, unless he is the holder of an embalmer's certificate, has passed such examination as the board may deem proper to ascertain his efficiency and qualifications to engage in funeral directing, and holds a certificate of registration from the board to that effect.

15. Corporations, etc. An embalmer's or funeral director's certificate, or both,

shall be issued to a corporation, partnership, association or other organization only if one or more of its officers actively engaged in the conduct of its business is the holder of an embalmer's or funeral director's certificate, or both, as the case may be.

16. Premises. Funeral directing shall be conducted in a fixed place of establishment.

17. Inspection. The board may inspect all places where funeral directing is conducted or where embalming is practiced.

18. Examinations. Examinations of applicants for certificates of registration shall be held at least once a year in the city of Concord and elsewhere in the discretion of the board. Any person who desires to engage in funeral directing or embalming shall submit in writing to the board on forms provided by it an application for registration accompanied by a fee of five dollars. The board shall require the applicant to submit to such examinations as it may deem proper.

19. In Lieu of Examinations. The board shall have the power, in its discretion, to accept in lieu of an examination a duly authenticated statement of a national board of examiners or of a board duly approved by the Conference of Embalmers' Examining Boards of the United States, Inc., certifying the successful passage of an examination conducted by said board or boards.

20. Certificates of Registration. The board shall issue to each applicant successfully passing the examination, where an

examination is required, and who otherwise satisfies the board of his qualifications, a certificate of registration, signed by all the members of the board, entitling him to practice or engage in the business in this state as a funeral director, embalmer, or both, as the case may be.

21. Contents and Display of Certificate. Every certificate of registration shall specify the name of the person to whom it was issued, the address of his place of business or employment, and shall be conspicuously displayed, at all times, in his place of business or employment. Certificates of registration shall not be assignable.

22. Special Certificates. The board may by special rule or by regulation issue a special funeral director's certificate of registration or a special embalmer's certificate of registration, without examination to *bona fide* nonresident funeral directors or embalmers who are qualified and duly licensed in each of their respective states under such rules and regulations as the board may see fit and upon the payment of a fee of five dollars.

23. Expiration. All certificates issued under the provisions of this chapter shall expire on the thirty-first day of December each year unless previously suspended or revoked.

24. Notices of Expiration. On or before the fifteenth day of November in each year the board shall mail to each holder of a certificate of registration a notice of the expiration of his certificate and an application for the renewal thereof.

25. Renewal of Certificates. All cer-

tificates of registration may be renewed by the holders thereof upon payment to the secretary of the board of a renewal fee of five dollars.

26. Application for Renewal. Applications for renewal, accompanied by the fee of five dollars, shall be filed with the board on or before the thirty-first day of December each year. Applications filed after the thirty-first day of December and on or before the fifteenth day of January must be accompanied by a fee of five dollars in addition to the renewal fee.

27. Failure to Renew. All certificates of registration shall be automatically revoked unless an application for renewal accompanied by the above stated requirements is filed by the fifteenth day of January following its date of expiration.

28. Educational Meetings. The board shall hold at least two educational meetings annually and at such times and at such places as it may determine, which meetings all holders of certificates of registration issued by the board shall be requested to attend. All expenses incurred by the board in connection with the meetings shall be certified for payment to and by the state treasurer and paid upon warrant of the governor from the special fund hereinafter provided. The secretary shall keep a record of attendance at state meetings and also, upon satisfactory proof thereof, of all holders of certificates of registration at all educational meetings held outside the state under auspices duly recognized and approved by the board.

29. Apprentices. No person shall as-

sist in the embalming of dead human bodies for burial or cremation in any manner unless he holds a license as an apprentice.

30. Licenses. Licenses shall be issued for a period of three years and shall terminate three years from the date of registration unless sooner ended by death, resignation, revocation or by ruling or decision of the board. Such licenses may be renewed in the discretion of the board.

31. Rules Governing Apprentices. The board may make such rules and regulations as it deems advisable for the qualifying or supervising of apprentices. No apprentice shall be permitted to advertise or hold himself out to the public as a holder of a certificate of registration in funeral directing or embalming.

32. Suspension and Revocation of Certificates. The board shall have power to suspend or revoke any certificate of registration for violation of any provision of this chapter, for violation of any rule or regulation duly adopted by the board, for gross incompetency, for unprofessional conduct, or for other cause deemed sufficient in the judgment of the board; provided, however, that prior to such suspension or revocation the holder thereof shall have notice in writing of the charges against him and shall have reasonable opportunity to be heard in his defense.

33. Power to Conduct Hearing. The chairman of the board shall have power to summon any person to appear and testify at any hearing of said board and to administer oaths and examine all witnesses.

34. Decision of Board. The suspen-

sion or revocation of a certificate of registration shall become operative and absolute thirty days after a decision is rendered; provided, however, that if during said period an appeal is taken said decision shall not become operative until confirmed by the court.

35. Appeal. Any person aggrieved by any decision or ruling of the board may, within thirty days after receiving notice of said decision or ruling, appeal therefrom to the superior court by filing therein his petition stating his reasons therefor and the superior court shall have power to review the entire proceedings taken and held by the board and hear and make final disposition thereof.

36. Reinstatement. Any certificate suspended or revoked may be reinstated or reissued to the original holder thereof upon such terms or conditions, if any, as the board may see fit.

37. Deceased Funeral Director. The board may by a special rule or by regulation permit the continuance of the business of a deceased funeral director duly registered as such by the board, under the active supervision of a person or persons holding the required certificate or certificates, for the benefit of the widow and family, for the estate or for persons interested in the estate of the decedent during such a period of time and in such manner and under such conditions as the board may determine.

38. Burial Associations Prohibited. It shall be unlawful for any person to engage in, promote or participate, directly or indirectly, in any scheme or plan in the nature of a burial association or in a so-

called chain of burial or funeral establishments.

39. Securing of Business. It shall be unlawful for any funeral director or embalmer, or the agents or representatives thereof, directly or indirectly, to pay or cause to be paid any sum of money or other valuable consideration for the securing of business.

40. To Render Account. The board shall account whenever requested, to the governor and council for all receipts and expenditures in detail.

41. Accidental Deaths. No person shall inject into any cavity or artery of the body of any person who has died from an accidental or sudden death, or under suspicious circumstances, any fluid or substance until a legal certificate of the cause of death has been obtained from the attending physician or medical referee, nor until a legal investigation has determined the cause of death. If a criminal cause of death is alleged or suspected no fluid or other substance shall be injected into a body until the cause of death is legally established.

42. Embalming Fluids. The sale or use for embalming purposes of any fluid containing arsenic, zinc, mercury, copper, lead, silver, antimony, chloral, or cyanogen, or any compound containing any of these, or any poisonous alkaloid, is prohibited, and all brands of embalming compounds used within the state shall be subject to test and approval by the state board of health.

43. Transfer of Body. The body of

any deceased person may be transferred to another town for preparation or for burial or cremation only under the direction of a funeral director; provided that death was not sudden, or the result of violence, and provided that such body shall be returned to the town in which death occurred within thirty-six hours, or a permit for permanent removal, as required by this chapter, has been secured within said time.

44. Transfer by Whom. Such transfer shall be made under the direction of a funeral director, and he or his representative shall leave with the institution from which or the person from whom such body is received, on forms supplied by the state board of health, the name of the funeral director, the name of the person making the transfer, his address, the funeral director's license number, and the date and hour such body was delivered to him.

45. Transfer to Other Town. Any body for which a burial or removal permit has been secured, in accordance with the provisions of this chapter, may be taken through or into another town for funeral services without additional permits.

Burials

46. Death Certificate. Whenever a person shall die, or a stillborn child shall be brought forth, the physician attending at the last sickness or bringing forth shall fill out and deliver to the funeral director, or to the town clerk, a certificate, duly signed, setting forth, as far as may be, the facts required in the record of a death, according to chapter 337.

47. If No Physician. If the deceased person did not have the attendance of a physician in his last sickness the town clerk may issue and sign the certificate of death, upon presentation of such facts as may be obtained of relatives, or persons in attendance upon the deceased person during the last sickness or present at the time of death, and the permit for burial shall be issued upon such information.

48. Death Out of State. If the deceased was a resident of this state and died in some other state, but is buried in this state, the clerk of the town where the interment is made shall make a record of the death, as required by chapter 337, section 1, and shall transmit a copy of said record to the state registrar as required by section 6 of said chapter.

49. Burial Permits, Obtaining. It shall be the duty of the funeral director to add to the death certificate the date and place of burial, and having signed the same, to forward it to the clerk of the town, and obtain a permit for burial. In case of a contagious or infectious disease the certificate shall be made and forwarded immediately.

50. Duplicates. If the deceased is to be buried in a town other than that in which the death occurred the town clerk issuing the burial permit shall, within six days, forward a duplicate of the record of death to the clerk of the town where the interment is made, who shall record the same; but no return of said duplicate record shall be made to the state registrar unless called for.

51. Required. No interment of the

dead body of a human being, nor disposition thereof in a tomb or vault, shall be made without a permit, nor otherwise than in accordance with it. No disinterment, except as otherwise herein provided, of the dead body of a human being shall be made without a permit therefor from the state board of health, countersigned by the local health officer, nor otherwise than in accordance with such permit. Such disinterment permit shall not be required for removal of such dead body from a tomb or vault for the purpose of burial, for reinterment of dead bodies after discontinuance of a public cemetery, as provided in sections 9 and 10 of chapter 68 of the Revised Laws, nor in case where an autopsy has been ordered by a county solicitor or the attorney general. No person shall assist in, assent to or allow, an interment or disinterment to be made until a permit has been obtained as provided in this section. Any person who shall violate the provisions of this section relative to disinterment shall be punished as provided in section 15, chapter 442, of the Revised Laws.

(1943, c. 157, s. 1.)

52. Return. It shall be the duty of every funeral director, or other person having charge of a burial place, who shall receive the permit, to preserve and return it to the clerk of the town within six days after the burial.

53. In Cities. Boards of health in cities shall have charge of granting permits for the burial of the dead; and no interment or removal from the city, of the dead body of any human being, nor disposition thereof in any tomb or vault, shall be made without a permit from said boards or their

duly appointed agent, nor otherwise than in accordance with said permit.

54. Prerequisites. No such permit shall be issued until there has been delivered to the board a satisfactory written statement containing the facts required by section 46 hereof, together with the certificate of the attending physician, or, in absence thereof, other evidence as required by section 47 hereof. Upon the receipt of such statement and certificate, the board shall forthwith countersign the same and transmit it to the city clerk for registration.

55. Sub-registrars. The town clerk may appoint suitable persons, not exceeding two in number, as sub-registrars, who are authorized to issue burial permits based upon a death certificate, as hereinbefore provided, in the manner required of the town clerk. The appointment of sub-registrars shall be made with reference to locality, as the convenience of the inhabitants of the town may require.

56. Record. The record of death upon which the permit is issued shall be forwarded to the town clerk within six days after it is received.

57. Special Fund. All funds paid over to the state treasury by the treasurer of the board shall be held in a special fund to be paid out upon warrant of the governor for the purposes of this chapter.

58. Penalty. Any person who shall violate any provision of this chapter, or any rule or regulation prescribed by the board hereby created, shall be fined not less than ten nor more than fifty dollars

or imprisoned not less than ten nor more than sixty days.

59. **Separability.** If any provision of this chapter is declared unconstitutional, or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and the application of such provision to other persons and circumstances shall not be affected thereby.

EXCERPTS

REVISED LAWS, CHAPTER 147

THE STATE BOARD OF HEALTH

8. Vital Statistics. The board shall appoint the registrar of vital statistics for the state who, under the supervision of the state health officer, shall have charge of the vital statistics of the state and shall enforce the provisions of law in relation to them. (1945, c. 129, s. 1.)

REVISED LAWS, CHAPTER 252

THE PRACTICE OF CHIROPRACTIC

17. Duties. Practitioners of chiropractic shall be subject to the provisions of the law relating to contagious and infectious diseases and to the granting of certificates of deaths, as physicians are.

REVISED LAWS, CHAPTER 436

MEDICAL REFEREES

16. Return of Death. He shall make a return of the death to the city or town clerk, as required by the laws of the state, said certificate containing all the facts necessary to complete the record as far as possible, as well as a personal description of the deceased for identification.

CHOICE AND DUTIES OF TOWN OFFICERS

9. Copies. The town clerk shall furnish, to any person requesting it and tendering pay therefor, an attested copy of any public record in his custody; and for neglect or refusal to do so he shall be fined twenty dollars.

10. City and Town Clerks Association. Town and city clerks shall be entitled to receive the actual expenses incurred by them in attending the yearly meeting of the New Hampshire City and Town Clerks Association, the same to be audited by the selectmen of towns and the finance committee of cities respectively and paid out of the town or city treasury.

53. Deposit with Clerk. All books, records, papers, vouchers, and documents which shall be in the possession of any officer, committee, or board of officers of the town, and which are not needed elsewhere by them in the discharge of official duty, shall be deposited in the office of the town clerk, and shall be there kept and preserved by him as public records of the town. Provided that, if the office of the clerk is not equipped for the safe keeping of the said public records, the clerk may, with the approval of the selectmen, deposit such records in some other safe and suitable place.

54. Care and Preservation. The selectmen shall cause all books of public record belonging to the town to be well and strongly bound, and all papers and documents to be filed and arranged in an order-

ly manner convenient for reference and examination, and shall provide suitable fireproof safes or other means for their care and preservation, all at the expense of the town.

55. Copying Records. The selectmen may authorize and direct the town clerk to make, in suitable books, true copies of any of the public records of the town which have become so faded, worn out or otherwise defaced that in their judgment it is necessary they should be copied in order to insure the preservation of a proper record of the facts or instruments recorded. The town clerk shall attach thereto certificates of their correctness, and showing when, by whom and under what authority they were made, and shall also preserve the originals. Such copies shall have the same force and effect as the originals, and copies made therefrom may be used in evidence the same as if made from the originals, without showing the loss of the originals.

56. Inspection. No town officer having the custody of its public records or documents shall loan the same or permit them to be taken from the place where they are usually kept except when necessary for the discharge of official duty or upon the summons of a court of competent authority; and they shall be open at all proper times for public inspection and examination.

58. Delivery by Clerk. Whenever a town officer goes out of office he shall deliver to his successor all records, books, pamphlets, papers and other things in his possession pertaining to the office.

ARMY MEDICAL LIBRARY
WASHINGTON, D. C. U.S.

REVISED LAWS, CHAPTER 442

DIGGING UP DEAD BODIES

15. Disinterments. If any person, except as otherwise provided in section 51 of chapter 168 of the Revised Laws, shall dig up, remove or carry away any human body or the remains thereof, or shall conceal the same, knowing it to have been illegally dug up, he shall be imprisoned not more than one year, or fined not more than two thousand dollars, or both. (1943, c. 157, s. 2.)

REVISED LAWS, CHAPTER 68

PUBLIC CEMETERIES

9. Discontinuance. Whenever there is a public necessity for the discontinuance of any public cemetery, park or common and the removal of the remains of persons buried in such cemetery, the same may be discontinued by a three fourths vote of the legal voters present and voting at any town-meeting holden for the purpose, or by three fourths of each board of the city councils present and voting.

10. Reinterment. The selectmen may, at the expense of the town, disinter all the remains of persons buried in such cemetery and reinter the same in the unoccupied part of some public cemetery within the town, such reinterment to be in the place designated by the nearest surviving relatives of the deceased person, if any is designated; such removal shall be done prudently and with proper care and attention.

INDEX

Birth, Marriage and Death Registration 3-9
Copies,
Authenticated 4
Certified 8
Forms 3
Fees, for certified copies 8
Disposal of 9
Paid by county 6
Paid by towns 6
Paid by Governmental Agencies 8
Institutional Records 6
Marriage
Nonresident 5
Parents' Birth Notification 5
Penalties 7
Records of town 5
As evidence 6
Reporting of
Birth 4
Marriage 5
Rules and Regulations 7
Unreported Facts 7
Vouchers 7

Burials 42-46
Death, Certificates 42
Duplicate certificates 43
No Physician 43
Out of State 43
Permits for burial 43-45
Obtaining, in towns 43
" in cities 44
Prerequisites 45
Required 43
Return 44
Sub-registrars 45

Separability 46
Violations, penalty 45

Chiropractic 50

Cemeteries, Public 50
Discontinuance 50
Reinterment 50

Death Registration, See Birth Registration 3-9

Disinterments 50

Divorce and Separation 21-30
Alimony, allowances, custody, etc. 25-27
Causes for divorce 22-24
Change of name 27
Jurisdiction to grant divorce 21-22
Limited Divorces 28
Orders for support, when husband is insane, etc. 29-30
Procedure 24-25
Void Marriages 21

Marriage Laws
Age 10-12
Marriageable 10
Of consent 11
Penalty for violation 12
Permission 11
Petition by party under age 11
Prohibitions 12
Blood test—See Intentions, Blood test 15-17
Defective Persons 12-14
Applications to State Board 13
Certificate 12
Marriage 12
Penalty for violations 14
Reports Required 13
Solemnization Prohibited 12

Diseased Persons 14-15
Certificate 14
Duty of Physician 14
Marriage 14
Notice to State Board 14
Penalty 15
Intentions, Blood Test, Certificates 15-17
Blood Test Required 15
Certificate of Marriage 16
License Fee 17
Marriage Outside State 17
Notice of Intentions 15
Penalty 16
Waivers 17
Legitimation of Children 20
Marrage Registration—See Birth Registration 3-9
Proof of Marriage 19
Relationship 10
Solemnization of Marriage 17-19

Medical Referees 47

Mortuary Regulations
Accidental Deaths 41
Apprentices 38-39
Board, Constituted 32-33
Accounts 41
Burial Association Prohibited 40
Certificates 36
Contents and Display 37
Expiration 37
Reinstatement 40
Renewal 37
Special 37
Suspension and revocation 39
Deceased Funeral Director 40
Definitions
Apprentice 32
Board 31
Embalmer 32
Embalming 31

Funeral Directing 31
Funeral Director 32
Persons 31
Educational Meetings 38
Embalming Fluids 41
Examinations 36
Hearings 39-40
List of Licensees 34
Premises 36
Qualifications, Embalmers 35
Rules and Regulations 34
Securing of Business 41
Secretary 34
Transfers, of body 41
By whom 42
To other town 42
Treasurer, Duties 34
Special Funds 45

Records, Public 48-49

Registrar, Appointment 47
Preservation of Returns 6

Town Officers, choice and duties 48-49